

UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
**RC PETITION**

DO NOT WRITE IN THIS SPACE  
Case No. 02-RC-154322 Date Filed 6-15-15

**INSTRUCTIONS:** Unless e-Filed using the Agency's website, [www.nlr.gov](http://www.nlr.gov), submit an original of this Petition to an NLRB office in the Region in which the employer concerned is located. The petition must be accompanied by both a showing of interest (see 6b below) and a certificate of service showing service on the employer and all other parties named in the petition of: (1) the petition; (2) Statement of Position form (Form NLRB-505); and (3) Description of Representation Case Procedures (Form NLRB 4812). The showing of interest should only be filed with the NLRB and should not be served on the employer or any other party.

**1. PURPOSE OF THIS PETITION: RC-CERTIFICATION OF REPRESENTATIVE** - A substantial number of employees wish to be represented for purposes of collective bargaining by Petitioner and Petitioner desires to be certified as representative of the employees. The Petitioner alleges that the following circumstances exist and requests that the National Labor Relations Board proceed under its proper authority pursuant to Section 9 of the National Labor Relations Act.

**2a. Name of Employer** Tishman Construction, Corp. **2b. Address(es) of Establishment(s) involved (Street and number, city, State, ZIP code)** 100 Park Avenue, New York, NY 10017

**3a. Employer Representative - Name and Title** Allan Paul, Officer **3b. Address (If same as 2b - state same)** same

**3c. Tel. No.** 212-708-6300 **3d. Cell No.** **3e. Fax No.** 212-739-7367 **3f. E-Mail Address**

**4a. Type of Establishment (Factory, mine, wholesaler, etc.)** Construction **4b. Principal product or service** Construction **5a. City and State where unit is located:** New York, NY

**5b. Description of Unit Involved**  
**Included:** Carpenter Foreman, Carpenter General Foreman, Journeyman, Carpenter, Journeymen Carpenters and Journeymen Carpenter Apprentices (per Article III of current CBA).  
**Excluded:** All other employees, including clerical employees and supervisors as defined in the Act.  
**6a. No. of Employees in Unit** Approximately 2-3  
**6b. Do a substantial number (30% or more) of the employees in the unit wish to be represented by the Petitioner?** Yes ☒ No ☐

**Check One:** ☐ **7a. Request for recognition as Bargaining Representative was made on (Date) \_\_\_\_\_ and Employer declined recognition on or about (Date) (If no reply received, so state).**  
☒ **7b. Petitioner is currently recognized as Bargaining Representative and desires certification under the Act.**

**8a. Name of Recognized or Certified Bargaining Agent (If none, so state).** NYC District Council of Carpenters **8b. Address** 395 Hudson Street, New York, NY 10014

**8c. Tel No.** 212-366-3354 **8d. Cell No.** **8e. Fax No.** 212-366-7363 **8f. E-Mail Address** mwalker@nycdistrictcouncil.org

**8g. Affiliation, if any** United Brotherhood of Carpenters & Joiners of America **8h. Date of Recognition or Certification** 1984 **8i. Expiration Date of Current or Most Recent Contract, if any (Month, Day, Year)** June 30, 2015

**9. Is there now a strike or picketing at the Employer's establishment(s) involved?** no. If so, approximately how many employees are participating? \_\_\_\_\_  
(Name of labor organization) \_\_\_\_\_ has picketed the Employer since (Month, Day, Year) \_\_\_\_\_

**10. Organizations or individuals other than Petitioner and those named in items 8 and 9, which have claimed recognition as representatives and other organizations and individuals known to have a representative interest in any employees in the unit described in item 5b above. (If none, so state)**  
None

**10a. Name** **10b. Address** **10c. Tel. No.** **10d. Cell No.**  
**10e. Fax No.** **10f. E-Mail Address**

**11. Election Details:** If the NLRB conducts an election in this matter, state your position with respect to any such election. **11a. Election Type:** ☒ Manual ☐ Mail ☐ Mixed Manual/Mail

**11b. Election Date(s):** June 24, 2015 **11c. Election Time(s):** 6:00 am - 8:00 pm **11d. Election Location(s):** NYC District Council

**12a. Full Name of Petitioner (Including local name and number)** NYC District Council of Carpenters **12b. Address (street and number, city, state, and ZIP code)** 395 Hudson Street, New York, NY 10014

**12c. Full name of national or international labor organization of which Petitioner is an affiliate or constituent (if none, so state)** United Brotherhood of Carpenters and Joiners of America, AFL-CIO

**12d. Tel No.** 212-366-3354 **12e. Cell No.** **12f. Fax No.** 212-366-7363 **12g. E-Mail Address** mwalker@nycdistrictcouncil.org

**13. Representative of the Petitioner who will accept service of all papers for purposes of the representation proceeding.**

**13a. Name and Title** Marty Glennon, Attorney **13b. Address (street and number, city, state, and ZIP code)** Archer, Byington, Glennon & Levine, LLP, One Huntington Quadrangle, Suite 4C10, Melville, NY 11747-9064

**13c. Tel No.** 631-249-6565 **13d. Cell No.** 516-996-9640 **13e. Fax No.** 631-777-6906 **13f. E-Mail Address** mglennon@abtlaw.com

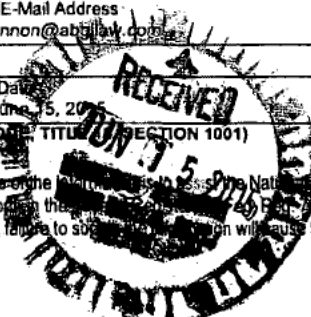
I declare that I have read the above petition and that the statements are true to the best of my knowledge and belief.

**Name (Print)** Marty Glennon **Signature** **Title** Attorney **Date** June 15, 2015

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

**PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is by the National Labor Relations Board (NLRB) in processing representation and related proceedings or litigation. The routine uses for the information are fully set forth in the NLRB's Privacy Policy, 49 Fed. Reg. 4942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to so disclose information will cause the NLRB to decline to invoke its processes.



Case Name: Tishman Construction, Corp.  
Case No.: 02-RC-154322  
Agent: Field Attorney TANYA KHAN

## CASEHANDLING LOG

[illegible]

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

|  |                          |
|--|--------------------------|
| <b>Tishman Construction Corporation</b><br><br><b>Employer</b><br><br><b>and</b><br><br><b>NYC DISTRICT COUNCIL OF CARPENTERS</b><br><br><b>Petitioner</b> | <b>Case 02-RC-154322</b> |
|--|--------------------------|


**AFFIDAVIT OF SERVICE OF: Petition dated June 15, 2015, Notice of Representation Hearing dated June 17, 2015, Description of Procedures in Certification and Decertification Cases (Form NLRB-4812), Notice of Petition for Election, and Statement of Position Form (Form NLRB-505).**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on June 17, 2015, I served the above documents by electronic mail and regular mail upon the following persons, addressed to them at the following addresses:

Allan Paul, Officer  
Tishman Construction Corporation  
100 Park Ave  
New York, NY 10017-5516

Marty Glennon, Esq.  
ARCHER BYINGTON GLENNON &  
LEVIN LLP  
One Huntington Quadrangle  
Suite 4C10, PO Box 9064  
Melville, NY 11747

M. Walker  
NYC DISTRICT COUNCIL OF  
CARPENTERS  
395 Hudson St  
New York, NY 10014-3669

|                              |   |
|------------------------------|---|
| <u>June 17, 2015</u><br>Date | <u>Daisy Cabrera Designated Agent of NLRB</u><br>Name   |
|                              | <br>Signature |



**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 2**



|  |                          |
|--|--------------------------|
| <b>Tishman Construction Corporation</b><br><b>Employer</b><br><br><b>and</b><br><b>NYC DISTRICT COUNCIL OF CARPENTERS</b><br><b>Petitioner</b> | <b>Case 02-RC-154322</b> |
|--|--------------------------|

**NOTICE OF REPRESENTATION HEARING**

The Petitioner filed the attached petition pursuant to Section 9(c) of the National Labor Relations Act. It appears that a question affecting commerce exists as to whether the employees in the unit described in the petition wish to be represented by a collective-bargaining representative as defined in Section 9(a) of the Act.

YOU ARE HEREBY NOTIFIED that, pursuant to Sections 3(b) and 9(c) of the Act, at 9:30 AM on **Thursday, June 25, 2015** and on consecutive days thereafter until concluded, at the National Labor Relations Board offices located at 26 Federal Plaza, Room 3614, New York, NY 10278, a hearing will be conducted before a hearing officer of the National Labor Relations Board. At the hearing, the parties will have the right to appear in person or otherwise, and give testimony.

YOU ARE FURTHER NOTIFIED that, pursuant to Section 102.63(b) of the Board's Rules and Regulations, Tishman Construction Corporation must complete the Statement of Position and file it and all attachments with the Regional Director and serve it on the parties listed on the petition such that is received by them by no later than **noon** Eastern time on **June 24, 2015**. The Statement of Position may be E-Filed but, unlike other E-Filed documents, must be filed by noon Eastern on the due date in order to be timely. If an election agreement is signed by all parties and returned to the Regional Office before the due date of the Statement of Position, the Statement of Position is not required to be filed.

Dated: June 17, 2015

KAREN P. FERNBACH  
REGIONAL DIRECTOR  
NATIONAL LABOR RELATIONS BOARD  
REGION 02  
26 Federal Plz Ste 3614  
New York, NY 10278-3699



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

REGION 2  
26 Federal Plz Ste 3614  
New York, NY 10278-3699

Agency Website: [www.nlr.gov](http://www.nlr.gov)  
Telephone: (212)264-0300  
Fax: (212)264-2450



Download  
NLRB  
Mobile App

**URGENT**

June 17, 2015

Tishman Construction Corporation  
Attn: Allan Paul, Officer  
100 Park Ave  
New York, NY 10017-5516

Re: Tishman Construction, Corp.  
Case 02-RC-154322

Dear Mr. Paul:

Enclosed is a copy of a petition that NYC DISTRICT COUNCIL OF CARPENTERS filed with the National Labor Relations Board (NLRB) seeking to represent certain of your employees. After a petition is filed, the employer is required to promptly take certain actions so please read this letter carefully to make sure you are aware of the employer's obligations. This letter tells you how to contact the Board agent who will be handling this matter, about the requirement to post and distribute the Notice of Petition for Election, the requirement to complete and serve a Statement of Position Form, a scheduled hearing in this matter, other information needed including a voter list, your right to be represented, and NLRB procedures.

**Investigator:** This petition will be investigated by Field Attorney TANYA KHAN whose telephone number is (212)264-0310. The Board agent will contact you shortly to discuss processing the petition. If you have any questions, please do not hesitate to call the Board agent. If the agent is not available, you may contact Supervisory Attorney SIMON-JON H. KOIKE whose telephone number is (212)264-0346. If appropriate, the NLRB attempts to schedule an election either by agreement of the parties or by holding a hearing and then directing an election.

**Required Posting and Distribution of Notice:** You must post the enclosed Notice of Petition for Election by June 19, 2015 in conspicuous places, including all places where notices to employees are customarily posted. The Notice of Petition for Election must be posted so all pages are simultaneously visible. If you customarily communicate with your employees electronically, you must also distribute the notice electronically to them. You must maintain the posting until the petition is dismissed or withdrawn or this notice is replaced by the Notice of Election. Posting and distribution of the Notice of Petition for Election will inform the employees whose representation is at issue and the employer of their rights and obligations under the National Labor Relations Act in the representation context. Failure to post or distribute the notice may be grounds for setting aside an election if proper and timely objections are filed.

**Required Statement of Position:** In accordance with Section 102.63(b) of the Board's Rules, the employer is required to complete the enclosed Statement of Position form (including the attached Commerce Questionnaire), have it signed by an authorized representative, and file a completed copy (with all required attachments) with this office and serve it on all parties named

in the petition such that it is received by them by **noon Eastern Time on June 24, 2015**. This form solicits information that will facilitate entry into election agreements or streamline the pre-election hearing if the parties are unable to enter into an election agreement. **This form may be e-Filed, but unlike other e-Filed documents, will *not* be timely if filed on the due date but after noon Eastern Time.** If you have questions about this form or would like assistance in filling out this form, please contact the Board agent named above.

*List(s) of Employees:* The employer's Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. If the employer contends that the proposed unit is inappropriate, the employer must separately list the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit to make it an appropriate unit. The employer must also indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015](http://www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015).

*Failure to Supply Information:* Failure to supply the information requested by this form may preclude you from litigating issues under Section 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§ 102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the

employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

**Notice of Hearing:** Enclosed is a Notice of Representation Hearing to be conducted at **9:30 AM on Thursday, June 25, 2015 at 26 Federal Plaza, Room 3614, New York, NY 10278**, if the parties do not voluntarily agree to an election. If a hearing is necessary, the hearing will run on consecutive days until concluded unless the regional director concludes that extraordinary circumstances warrant otherwise. Before the hearing begins, the NLRB will continue to explore potential areas of agreement with the parties in order to reach an election agreement and to eliminate or limit the costs associated with formal hearings.

Upon request of a party, the regional director may postpone the hearing for up to 2 business days upon a showing of special circumstances and for more than 2 business days upon a showing of extraordinary circumstances. A party desiring a postponement should make the request to the regional director in writing, set forth in detail the grounds for the request, and include the positions of the other parties regarding the postponement. E-Filing the request is preferred, but not required. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

**Other Information Needed Now:** Please submit to this office, as soon as possible, the following information needed to handle this matter:

- (a) A copy of any existing or recently expired collective-bargaining agreements, and any amendments or extensions, or any recognition agreements covering any of your employees in the unit involved in the petition (the petitioned-for unit);
- (b) The name and contact information for any other labor organization (union) claiming to represent any of the employees in the petitioned-for unit;
- (c) If potential voters will need notices or ballots translated into a language other than English, the names of those languages and dialects, if any.

**Voter List:** If an election is held in this matter, the employer must transmit to this office and to the other parties to the election, an alphabetized list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cellular telephone numbers) of eligible voters. Usually, the list must be furnished within 2 business days of the issuance of the Decision and Direction of Election or approval of an election agreement. I am advising you of this requirement now, so that you will have ample time to prepare this list. When feasible, the list must be electronically filed with the Region and served electronically on the other parties. To guard against potential abuse, this list may not be used for purposes other than the representation proceeding, NLRB proceedings arising from it or other related matters.

**Right to Representation:** You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative

must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, [www.nlr.gov](http://www.nlr.gov), or at the Regional office upon your request.

If someone contacts you about representing you in this case, please be assured that no organization or person seeking your business has any “inside knowledge” or favored relationship with the NLRB. Their knowledge regarding this matter was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

**Procedures:** Also enclosed is a Description of Procedures in Certification and Decertification Cases (Form NLRB-4812). We strongly urge everyone to submit documents and other materials by E-Filing (not e-mailing) through our website, [www.nlr.gov](http://www.nlr.gov). E-Filing your documents places those documents in our official electronic case files. On all your correspondence regarding the petition, please include the case name and number indicated above.

Information about the NLRB and our customer service standards is available on our website, [www.nlr.gov](http://www.nlr.gov), or from an NLRB office upon your request. We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink, reading "Karen P. Fernbach". The signature is fluid and cursive, with the first letters of each word being capitalized and prominent.

KAREN P. FERNBACH  
Regional Director

Enclosures

1. Petition
2. Notice of Petition for Election (Form 5492)
3. Notice of Representation Hearing
4. Description of Procedures in Certification and Decertification Cases (Form 4812)
5. Statement of Position form and Commerce Questionnaire (Form 505)





## National Labor Relations Board



# NOTICE OF PETITION FOR ELECTION

This notice is to inform employees that NYC DISTRICT COUNCIL OF CARPENTERS has filed a petition with the National Labor Relations Board (NLRB), a Federal agency, in Case 02-RC-154322 seeking an election to become certified as the representative of the employees of Tishman Construction Corporation in the unit set forth below:

**Included: Carpenter Foreman, Carpenter General Foreman, Journeyman, Carpenter, Journeymen Carpenters and Journeymen Carpenter Apprentices (per Article III of current CBA)**

**Excluded: All other employees, including clerical employees and supervisors as defined in the Act.**

This notice also provides you with information about your basic rights under the National Labor Relations Act, the processing of the petition, and rules to keep NLRB elections fair and honest.

## YOU HAVE THE RIGHT under Federal Law

- To self-organization
- To form, join, or assist labor organizations
- To bargain collectively through representatives of your own choosing
- To act together for the purposes of collective bargaining or other mutual aid or protection
- To refuse to do any or all of these things unless the union and employer, in a state where such agreements are permitted, enter into a lawful union-security agreement requiring employees to pay periodic dues and initiation fees. Nonmembers who inform the union that they object to the use of their payments for nonrepresentational purposes may be required to pay only their share of the union's costs of representational activities (such as collective bargaining, contract administration, and grievance adjustments).

## PROCESSING THIS PETITION

Elections do not necessarily occur in all cases after a petition is filed. **NO FINAL DECISIONS HAVE BEEN MADE YET** regarding the appropriateness of the proposed unit or whether an election will be held in this matter. If appropriate, the NLRB will first see if the parties will enter into an election agreement that specifies the method, date, time, and location of an election and the unit of employees eligible to vote. If the parties do not enter into an election agreement, usually a hearing is held to receive evidence on the appropriateness of the unit

and other issues in dispute. After a hearing, an election may be directed by the NLRB, if appropriate.

IF AN ELECTION IS HELD, it will be conducted by the NLRB by secret ballot and Notices of Election will be posted before the election giving complete details for voting.

## **ELECTION RULES**

The NLRB applies rules that are intended to keep its elections fair and honest and that result in a free choice. If agents of any party act in such a way as to interfere with your right to a free election, the election can be set aside by the NLRB. Where appropriate the NLRB provides other remedies, such as reinstatement for employees fired for exercising their rights, including backpay from the party responsible for their discharge.

The following are examples of conduct that interfere with employees' rights and may result in setting aside the election:

- Threatening loss of jobs or benefits by an employer or a union
- Promising or granting promotions, pay raises, or other benefits, to influence an employee's vote by a party capable of carrying out such promises
- An employer firing employees to discourage or encourage union activity or a union causing them to be fired to encourage union activity
- Making campaign speeches to assembled groups of employees on company time, where attendance is mandatory, within the 24-hour period before the polls for the election first open or the mail ballots are dispatched
- Incitement by either an employer or a union of racial or religious prejudice by inflammatory appeals
- Threatening physical force or violence to employees by a union or an employer to influence their votes

Please be assured that IF AN ELECTION IS HELD, every effort will be made to protect your right to a free choice under the law. Improper conduct will not be permitted. All parties are expected to cooperate fully with the NLRB in maintaining basic principles of a fair election as required by law. The NLRB as an agency of the United States Government does not endorse any choice in the election.

For additional information about the processing of petitions, go to [www.nlr.gov](http://www.nlr.gov) or contact the NLRB at (212)264-0300.

**THIS IS AN OFFICIAL GOVERNMENT NOTICE AND MUST NOT BE DEFACED BY ANYONE. IT MUST REMAIN POSTED WITH ALL PAGES SIMULTANEOUSLY VISIBLE UNTIL REPLACED BY THE NOTICE OF ELECTION OR THE PETITION IS DISMISSED OR WITHDRAWN.**



# **National Labor Relations Board**





**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 2**



|  |                          |
|--|--------------------------|
| <b>Tishman Construction Corporation</b><br><b>Employer</b><br><br><b>and</b><br><b>NYC DISTRICT COUNCIL OF CARPENTERS</b><br><b>Petitioner</b> | <b>Case 02-RC-154322</b> |
|--|--------------------------|

**NOTICE OF REPRESENTATION HEARING**

The Petitioner filed the attached petition pursuant to Section 9(c) of the National Labor Relations Act. It appears that a question affecting commerce exists as to whether the employees in the unit described in the petition wish to be represented by a collective-bargaining representative as defined in Section 9(a) of the Act.

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YOU ARE FURTHER NOTIFIED that, pursuant to Section 102.63(b) of the Board's Rules and Regulations, Tishman Construction Corporation must complete the Statement of Position and file it and all attachments with the Regional Director and serve it on the parties listed on the petition such that is received by them by no later than **noon** Eastern time on **June 24, 2015**. The Statement of Position may be E-Filed but, unlike other E-Filed documents, must be filed by noon Eastern on the due date in order to be timely. If an election agreement is signed by all parties and returned to the Regional Office before the due date of the Statement of Position, the Statement of Position is not required to be filed.

Dated: June 17, 2015

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KAREN P. FERNBACH  
REGIONAL DIRECTOR  
NATIONAL LABOR RELATIONS BOARD  
REGION 02  
26 Federal Plz Ste 3614  
New York, NY 10278-3699

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

|   |                                 |
|---|---------------------------------|
| <p><b>Tishman Construction Corporation</b><br/><b>Employer</b></p> <p style="text-align: center;"><b>and</b></p> <p><b>NYC DISTRICT COUNCIL OF CARPENTERS</b><br/><b>Petitioner</b></p> | <p><b>Case 02-RC-154322</b></p> |
|---|---------------------------------|

**AFFIDAVIT OF SERVICE OF: Petition dated June 15, 2015, Notice of Representation Hearing dated June 17, 2015, Description of Procedures in Certification and Decertification Cases (Form NLRB-4812), Notice of Petition for Election, and Statement of Position Form (Form NLRB-505).**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on June 17, 2015, I served the above documents by electronic mail and regular mail upon the following persons, addressed to them at the following addresses:

Allan Paul, Officer  
Tishman Construction Corporation  
100 Park Ave  
New York, NY 10017-5516

Marty Glennon, Esq.  
ARCHER BYINGTON GLENNON &  
LEVIN LLP  
One Huntington Quadrangle  
Suite 4C10, PO Box 9064  
Melville, NY 11747

M. Walker  
NYC DISTRICT COUNCIL OF  
CARPENTERS  
395 Hudson St  
New York, NY 10014-3669

|  |   |
|--|---|
| <p>June 17, 2015</p> <hr/> <p>Date</p> | <p>Daisy Cabrera Designated Agent of NLRB</p> <hr/> <p>Name</p> |
|  | <p>/s/</p> <hr/> <p>Signature</p>                               |

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD

**DESCRIPTION OF REPRESENTATION CASE PROCEDURES  
IN CERTIFICATION AND DECERTIFICATION CASES**

The National Labor Relations Act grants employees the right to bargain collectively through representatives of their own choosing and to refrain from such activity. A party may file an RC, RD or RM petition with the National Labor Relations Board (NLRB) to conduct a secret ballot election to determine whether a representative will represent, or continue to represent, a unit of employees. An **RC** petition is generally filed by a union that desires to be certified as the bargaining representative. An **RD** petition is filed by employees who seek to remove the currently recognized union as the bargaining representative. An **RM** petition is filed by an employer who seeks an election because one or more individuals or unions have sought recognition as the bargaining representative, or based on a reasonable belief supported by objective considerations that the currently recognized union has lost its majority status. This form generally describes representation case procedures in RC, RD and RM cases, also referred to as certification and decertification cases.

**Right to be Represented** – Any party to a case with the NLRB has the right to be represented by an attorney or other representative in any proceeding before the NLRB. A party wishing to have a representative appear on its behalf should have the representative complete a Notice of Appearance (Form NLRB-4701), and E-File it at [www.nlr.gov](http://www.nlr.gov) or forward it to the NLRB Regional Office handling the petition as soon as possible.

**Filing and Service of Petition** – A party filing an RC, RD or RM petition is required to serve a copy of its petition on the parties named in the petition along with this form and the Statement of Position form. The petitioner files the petition with the NLRB, together with (1) a certificate showing service of these documents on the other parties named in the petition, and (2) a showing of interest to support the petition. The showing of interest is not served on the other parties.

**Notice of Hearing** – After a petition in a certification or decertification case is filed with the NLRB, the NLRB reviews both the petition and the required showing of interest for sufficiency, assigns the petition a case number, and promptly sends letters to the parties notifying them of the Board agent who will be handling the case. In most cases, the letters include a Notice of Representation Hearing. Except in cases presenting unusually complex issues, this pre-election hearing is set for a date 8 days (excluding intervening federal holidays) from the date of service of the notice of hearing. Once the hearing begins, it will continue day to day until completed absent extraordinary circumstances. The Notice of Representation Hearing also sets the due date for filing and serving the Statement(s) of Position. Included with the Notice of Representation Hearing are a copy of the petition, this form, a Statement of Position form, a Notice of Petition for Election, and a letter advising how to contact the Board agent who will be handling the case and discussing those documents.

**Hearing Postponement:** The regional director may postpone the hearing for up to 2 business days upon request of a party showing special circumstances and for more than 2 business days upon request of a party showing extraordinary circumstances. A party wishing to request a postponement should make the request in writing and set forth in detail the grounds for the request. The request should include the positions of the other parties regarding the postponement. The request should be filed with the regional director. E-Filing the request is preferred, but not required. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

**Statement of Position Form and List(s) of Employees** – The Statement of Position form solicits commerce and other information that will facilitate entry into election agreements or streamline the pre-election hearing if the parties are unable to enter into an election agreement. As part of its Statement of Position form, the employer also provides a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit. If the employer contends that the proposed unit is not appropriate, the employer must separately list the same information for all individuals that the employer contends must be added to the proposed unit to make it an appropriate unit, and must further indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department).

Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list

must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015](http://www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015).

Ordinarily the Statement of Position must be filed with the Regional Office and served on the other parties such that it is received by them by noon on the business day before the opening of the hearing. The regional director may postpone the due date for filing and serving the Statement of Position for up to 2 business days upon request of a party showing special circumstances and for more than 2 business days upon request of a party showing extraordinary circumstances. The Statement of Position form may be E-Filed but, unlike other E-Filed documents, will not be timely if filed on the due date but after noon in the time zone of the Region where the petition is filed. Consequences for failing to satisfy the Statement of Position requirement are discussed on the following page under the heading "Preclusion."

A request to postpone the hearing will not automatically be treated as a request for an extension of the Statement of Position due date. If a party wishes to request both a postponement of the hearing and a postponement of the Statement of Position due date, the request must make that clear and must specify the reasons that postponements of both are sought.

**Posting and Distribution of Notice of Petition for Election** – Within 2 business days after service of the notice of hearing, the employer must post the Notice of Petition for Election in conspicuous places, including all places where notices to employees are customarily posted, and must also distribute it electronically if the employer customarily communicates with its employees electronically. The employer must maintain the posting until the petition is dismissed or withdrawn, or the Notice of Petition for Election is replaced by the Notice of Election. The employer's failure properly to post or distribute the Notice of Petition for Election may be grounds for setting aside the election if proper and timely objections are filed.

**Election Agreements** – Elections can occur either by agreement of the parties or by direction of the regional director or the Board. Three types of agreements are available: (1) a Consent Election Agreement (Form NLRB-651); (2) a Stipulated Election Agreement (Form NLRB-652); and (3) a Full Consent Agreement (Form NLRB-5509). In the Consent Election Agreement and the Stipulated Election Agreement, the parties agree on an appropriate unit and the method, date, time, and place of a secret ballot election that will be conducted by an NLRB agent. In the Consent Agreement, the parties also agree that post-election matters (election objections or determinative challenged ballots) will be resolved with finality by the regional director; whereas in the Stipulated Election Agreement, the parties agree that they may request Board review of the regional director's post-election determinations. A Full Consent Agreement provides that the regional director will make final determinations regarding all pre-election and post-election issues.

**Hearing Cancellation Based on Agreement of the Parties** – The issuance of the Notice of Representation Hearing does not mean that the matter cannot be resolved by agreement of the parties. On the contrary, the NLRB encourages prompt voluntary adjustments and the Board agent assigned to the case will work with the parties to enter into an election agreement, so the parties can avoid the time and expense of participating in a hearing.

**Hearing** – A hearing will be held unless the parties enter into an election agreement approved by the regional director or the petition is dismissed or withdrawn.

*Purpose of Hearing:* The purpose of a pre-election hearing is to determine if a question of representation exists. A question of representation exists if a proper petition has been filed concerning a unit appropriate for the purpose of collective bargaining or, in the case of a decertification petition, concerning a unit in which a labor organization has been certified or is being currently recognized by the employer as the bargaining representative. Disputes concerning individuals' eligibility to vote or inclusion in an appropriate unit ordinarily need not be litigated or resolved before an election is conducted.

*Issues at Hearing:* Issues that might be litigated at the pre-election hearing include: jurisdiction; labor organization status; bars to elections; unit appropriateness; expanding and contracting unit issues; inclusion of professional employees with nonprofessional employees; and eligibility formulas. At the hearing, the Statement of Position will be received into evidence and, prior to the introduction of further evidence, all other parties will respond on the record to each issue raised in the Statement. The hearing officer will not receive evidence concerning any issue as to which the parties have not taken adverse positions, except for evidence regarding the Board's jurisdiction over the employer and evidence concerning any issue, such as the appropriateness of the proposed unit, as to which the regional director determines that record evidence is necessary.

**Preclusion:** At the hearing, a party will be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party will be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. As set forth in §102.66(d) of the Board's rules, if the employer fails to timely furnish the lists of employees, the employer will be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

**Conduct of Hearing:** If held, the hearing is usually open to the public and will be conducted by a hearing officer of the NLRB. Any party has the right to appear at any hearing in person, by counsel, or by other representative, to call, examine, and cross-examine witnesses, and to introduce into the record evidence of the significant facts that support the party's contentions and are relevant to the existence of a question of representation. The hearing officer also has the power to call, examine, and cross-examine witnesses and to introduce into the record documentary and other evidence. Witnesses will be examined orally under oath. The rules of evidence prevailing in courts of law or equity shall not be controlling. Parties appearing at any hearing who have or whose witnesses have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.503, and who in order to participate in this hearing need appropriate auxiliary aids, as defined in 29 C.F.R. 100.503, should notify the regional director as soon as possible and request the necessary assistance.

**Official Record:** An official reporter will make the only official transcript of the proceedings and all citations in briefs or arguments must refer to the official record. (Copies of exhibits should be supplied to the hearing officer and other parties at the time the exhibit is offered in evidence.) All statements made in the hearing room will be recorded by the official reporter while the hearing is on the record. If a party wishes to make off-the-record remarks, requests to make such remarks should be directed to the hearing officer and not to the official reporter. After the close of the hearing, any request for corrections to the record, either by stipulation or motion, should be forwarded to the regional director.

**Motions and Objections:** All motions must be in writing unless stated orally on the record at the hearing and must briefly state the relief sought and the grounds for the motion. A copy of any motion must be served immediately on the other parties to the proceeding. Motions made during the hearing are filed with the hearing officer. All other motions are filed with the regional director, except that motions made after the transfer of the record to the Board are filed with the Board. If not E-Filed, an original and two copies of written motions shall be filed. Statements of reasons in support of motions or objections should be as concise as possible. Objections shall not be deemed waived by further participation in the hearing. On appropriate request, objections may be permitted to stand to an entire line of questioning. Automatic exceptions will be allowed to all adverse rulings.

**Election Details:** Prior to the close of the hearing the hearing officer will: (1) solicit the parties' positions (but will not permit litigation) on the type, date(s), time(s), and location(s) of the election and the eligibility period; (2) solicit the name, address, email address, facsimile number, and phone number of the employer's on-site representative to whom the regional director should transmit the Notice of Election if an election is directed; (3) inform the parties that the regional director will issue a decision as soon as practicable and will immediately transmit the document to the parties and their designated representatives by email, facsimile, or by overnight mail (if neither an email address nor facsimile number was provided); and (4) inform the parties of their obligations if the director directs an election and of the time for complying with those obligations.

**Oral Argument and Briefs:** Upon request, any party is entitled to a reasonable period at the close of the hearing for oral argument, which will be included in the official transcript of the hearing. At any time before the close of the hearing, any party may file a memorandum addressing relevant issues or points of law. Post-hearing briefs shall be filed only upon special permission of the regional director and within the



time and addressing the subjects permitted by the regional director. If filed, copies of the memorandum or brief shall be served on all other parties to the proceeding and a statement of such service shall be filed with the memorandum or brief. No reply brief may be filed except upon special leave of the regional director. If allowed, briefs should be double-spaced on 8½ by 11 inch paper. Briefs must be filed in accordance with the provisions of Section 102.111(b) of the Board's Rules. E-Filing of briefs through the Board's website, [www.nlr.gov](http://www.nlr.gov), is encouraged, but not required. Facsimile transmission of briefs is NOT permitted.

**Regional Director Decision** - After the hearing, the regional director issues a decision directing an election, dismissing the petition or reopening the hearing. A request for review of the regional director's pre-election decision may be filed with the Board at any time after issuance of the decision until 14 days after a final disposition of the proceeding by the regional director. Accordingly, a party need not file a request for review before the election in order to preserve its right to contest that decision after the election. Instead, a party can wait to see whether the election results have mooted the basis of an appeal. The Board will grant a request for review only where compelling reasons exist therefore.

**Voter List** – The employer must provide to the regional director and the parties named in the election agreement or direction of election a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cellular ("cell") telephone numbers) of all eligible voters. (In construction industry elections, unless the parties stipulate to the contrary, also eligible to vote are all employees in the unit who either (1) were employed a total of 30 working days or more within the 12 months preceding the election eligibility date or (2) had some employment in the 12 months preceding the election eligibility date and were employed 45 working days or more within the 24 months immediately preceding the election eligibility date. However, employees meeting either of those criteria who were terminated for cause or who quit voluntarily prior to the completion of the last job for which they were employed, are not eligible.) The employer must also include in a separate section of the voter list the same information for those individuals whom the parties have agreed should be permitted to vote subject to challenge or those individuals who, according to the direction of election, will be permitted to vote subject to challenge.

The list of names must be alphabetized (overall or by department) and be in the same Microsoft Word file (or Microsoft Word compatible file) format as the initial lists provided with the Statement of Position form unless the parties agree to a different format or the employer certifies that it does not possess the capacity to produce the list in the required form. When feasible, the list must be filed electronically with the regional director and served electronically on the other parties named in the agreement or direction.

To be timely filed and served, the voter list must be received by the regional director and the parties named in the agreement or direction respectively within 2 business days after the approval of the agreement or issuance of the direction unless a longer time is specified in the agreement or direction. A certificate of service on all parties must be filed with the regional director when the voter list is filed. The employer's failure to file or serve the list within the specified time or in proper format shall be grounds for setting aside the election whenever proper and timely objections are filed. The parties shall not use the list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

**Waiver of Time to Use Voter List** – Under existing NLRB practice, an election is not ordinarily scheduled for a date earlier than 10 days after the date when the employer must file the voter list with the Regional Office. However, the parties entitled to receive the voter list may waive all or part of the 10-day period by executing Form NLRB-4483. A waiver will not be effective unless all parties who are entitled to the list agree to waive the same number of days.

**Election** – Information about the election, requirements to post and distribute the Notice of Election, and possible proceedings after the election is available from the Regional Office and will be provided to the parties when the Notice of Election is sent to the parties.

**Withdrawal or Dismissal** – If it is determined that the NLRB does not have jurisdiction or that other criteria for proceeding to an election are not met, the petitioner is offered an opportunity to withdraw the petition. If the petitioner does not withdraw the petition, the regional director will dismiss the petition and advise the petitioner of the reason for the dismissal and of the right to appeal to the Board.



## **REVIEW THE FOLLOWING IMPORTANT INFORMATION BEFORE FILLING OUT A STATEMENT OF POSITION FORM**

**Completing and Filing this Form:** The Notice of Hearing indicates which parties are responsible for completing the form. If you are required to complete the form, you must have it signed by an authorized representative and file a completed copy (including all attachments) with the RD and serve copies on all parties named in the petition by the date and time established for its submission. If more space is needed for your answers, additional pages may be attached. If you have questions about this form or would like assistance in filling out this form, please contact the Board agent assigned to handle this case. **You may E-File your Statement of Position at [www.nlrb.gov](http://www.nlrb.gov), but unlike other e-Filed documents, it will *not* be timely if filed on the due date but after noon in the time zone of the Region where the petition was filed.**

**Note:** *Non-employer parties who complete this Statement of Position are NOT required to complete items 8f and 8g of the form, or to provide a commerce questionnaire or the lists described in item 7. In RM cases, the employer is NOT required to complete items 3, 5, 6, and 8a-8e of the form.*

**Required Lists:** The employer's Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. If the employer contends that the proposed unit is inappropriate, the employer must separately list the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit to make it an appropriate unit. The employer must also indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlrb.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015](http://www.nlrb.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015).

**Consequences of Failure to Supply Information:** Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
**STATEMENT OF POSITION**

**DO NOT WRITE IN THIS SPACE**

|                                 |                                    |
|---------------------------------|------------------------------------|
| Case No.<br><b>02-RC-154322</b> | Date Filed<br><b>June 15, 2015</b> |
|---------------------------------|------------------------------------|

**INSTRUCTIONS:** Submit this Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and all attachments on each party named in the petition in this case such that it is received by them by the date and time specified in the notice of hearing.  
**Note:** Non-employer parties who complete this form are NOT required to complete items 8f or 8g below or to provide a commerce questionnaire or the lists described in item 7. In RM cases, the employer is NOT required to respond to items 3, 5, 6, and 8a-8e below.

|  |                                     |   |                    |
|--|-------------------------------------|---|--------------------|
| 1a. Full name of party filing Statement of Position  |                                     | 1c. Business Phone:   | 1e. Fax No.:       |
| 1b. Address (Street and number, city, state, and ZIP code)   |                                     | 1d. Cell No.:   | 1f. e-Mail Address |
| 2. Do you agree that the NLRB has jurisdiction over the Employer in this case? <input type="checkbox"/> Yes <input type="checkbox"/> No<br>(A completed commerce questionnaire (Attachment A) must be submitted by the Employer, regardless of whether jurisdiction is admitted)   |                                     |   |                    |
| 3. Do you agree that the proposed unit is appropriate? <input type="checkbox"/> Yes <input type="checkbox"/> No (If not, answer 3a and 3b)   |                                     |   |                    |
| a. State the basis for your contention that the proposed unit is not appropriate. (If you contend a classification should be excluded or included briefly explain why, such as shares a community of interest or are supervisors or guards)  |                                     |   |                    |
| b. State any classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit.  |                                     |   |                    |
| Added  |                                     | Excluded  |                    |
| 4. Other than the individuals in classifications listed in 3b, list any individual(s) whose eligibility to vote you intend to contest at the pre-election hearing in this case and the basis for contesting their eligibility.   |                                     |   |                    |
| 5. Is there a bar to conducting an election in this case? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, state the basis for your position.  |                                     |   |                    |
| 6. Describe all other issues you intend to raise at the pre-election hearing.  |                                     |   |                    |
| The employer must provide the following lists which must be alphabetized (overall or by department) in the format specified at <a href="http://www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015">www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015</a> .<br>A list containing the full names, work locations, shifts and job classification of all individuals in the proposed unit as of the payroll period immediately preceding the filing of the petition who remain employed as of the date of the filing of the petition. (Attachment B)<br>If the employer contends that the proposed unit is inappropriate the employer must provide (1) a separate list containing the full names, work locations, shifts and job classifications of all individuals that it contends must be <i>added</i> to the proposed unit, if any to make it an appropriate unit, (Attachment C) and (2) a list containing the full names of any individuals it contends must be <i>excluded</i> from the proposed unit to make it an appropriate unit. (Attachment D) |                                     |   |                    |
| State your position with respect to the details of any election that may be conducted in this matter. 8a. Type: <input type="checkbox"/> Manual <input type="checkbox"/> Mail <input type="checkbox"/> Mixed Manual/Mail   |                                     |   |                    |
| 8b. Date(s)  | 8c. Time(s)                         | 8d. Location(s)   |                    |
| 8e. Eligibility Period (e.g. special eligibility formula)  | 8f. Last Payroll Period Ending Date | 8g. Length of payroll period<br><input type="checkbox"/> Weekly <input type="checkbox"/> Biweekly <input type="checkbox"/> Other (specify length) |                    |
| <b>9. Representative who will accept service of all papers for purposes of the representation proceeding</b>   |                                     |   |                    |
| 9a. Full name and title of authorized representative   |                                     | 9b. Signature of authorized representative  | 9c. Date           |
| 9d. Address (Street and number, city, state, and ZIP code)   |                                     |   | 9e. e-Mail Address |
| 9f. Business Phone No.:  |                                     | 9g. Fax No.   | 9h. Cell No.       |

**WILLFUL FALSE STATEMENTS ON THIS STATEMENT OF POSITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. Code, Title 18, Section 1001)**

**PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

Revised 3/21/2011

## NATIONAL LABOR RELATIONS BOARD

**QUESTIONNAIRE ON COMMERCE INFORMATION**

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME

Tishman Construction, Corp.

CASE NUMBER

02-RC-154322

**1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)****2. TYPE OF ENTITY**☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify )**3. IF A CORPORATION or LLC**A. STATE OF INCORPORATION  
OR FORMATION

B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES

**4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS****5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR****6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).****7. A. PRINCIPAL LOCATION:****B. BRANCH LOCATIONS:****8. NUMBER OF PEOPLE PRESENTLY EMPLOYED**

A. Total:

B. At the address involved in this matter:

**9. DURING THE MOST RECENT (Check appropriate box): ☐ CALENDAR YR ☐ 12 MONTHS or ☐ FISCAL YR (FY dates )**

YES NO

A. Did you **provide services** valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value.  
\$B. If you answered no to 9A, did you **provide services** valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided.  
\$C. If you answered no to 9A and 9B, did you **provide services** valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$D. Did you **sell goods** valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$E. If you answered no to 9D, did you **sell goods** valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount.  
\$F. Did you **purchase and receive goods** valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$G. Did you **purchase and receive goods** valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$H. **Gross Revenues** from all sales or performance of services (Check the largest amount)  
☐ \$100,000 ☐ \$250,000 ☐ \$500,000 ☐ \$1,000,000 or more If less than \$100,000, indicate amount.I. **Did you begin operations within the last 12 months?** If yes, specify date: \_\_\_\_\_**10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?**☐ YES ☐ NO (If yes, name and address of association or group).**11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS**

NAME

TITLE

E-MAIL ADDRESS

TEL. NUMBER

**12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE**

NAME AND TITLE (Type or Print)

SIGNATURE

E-MAIL ADDRESS

DATE

**PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

**From:** [fred.braid@hklaw.com](mailto:fred.braid@hklaw.com)  
**To:** [Khan, Tanya](#)  
**Cc:** [Fernbach, Karen P.](#)  
**Subject:** Tishman Construction Corporation - 2-RC-154322  
**Date:** Friday, June 19, 2015 4:39:07 PM

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Please note our appearance on behalf of Tishman Construction Corporation in this matter and kindly direct all future communications regarding this matter to the undersigned. Thank you.

**Frederick D. Braid | Holland & Knight**

Partner

31 West 52nd Street | New York NY 10019

Phone 212.513.3393 | Fax 212.385.9010

[fred.braid@hklaw.com](mailto:fred.braid@hklaw.com) | [www.hklaw.com](http://www.hklaw.com)

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NOTE: This e-mail is from a law firm, Holland & Knight LLP ("H&K"), and is intended solely for the use of the individual(s) to whom it is addressed. If you believe you received this e-mail in error, please notify the sender immediately, delete the e-mail from your computer and do not copy or disclose it to anyone else. If you are not an existing client of H&K, do not construe anything in this e-mail to make you a client unless it contains a specific statement to that effect and do not disclose anything to H&K in reply that you expect it to hold in confidence. If you properly received this e-mail as a client, co-counsel or retained expert of H&K, you should maintain its contents in confidence in order to preserve the attorney-client or work product privilege that may be available to protect confidentiality.

**From:** [fred.braid@hklaw.com](mailto:fred.braid@hklaw.com)  
**To:** [Khan, Tanya](#)  
**Subject:** RE: Tishman Construction Corporation - 2-RC-154322  
**Date:** Friday, June 19, 2015 7:50:21 PM

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Dear Ms. Khan,

I will not be in a position to discuss this matter with you until Tuesday of next week.

**Frederick D. Braid | Holland & Knight**

Partner

31 West 52nd Street | New York NY 10019

Phone 212.513.3393 | Fax 212.385.9010

[fred.braid@hklaw.com](mailto:fred.braid@hklaw.com) | [www.hklaw.com](http://www.hklaw.com)

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[Add to address book](#) | [View professional biography](#)

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**From:** Khan, Tanya [mailto:Tanya.Khan@nrlb.gov]  
**Sent:** Friday, June 19, 2015 4:47 PM  
**To:** Braid, Fred (NYC - X73393)  
**Subject:** Re: Tishman Construction Corporation - 2-RC-154322

Mr. Braid,

Do you know if the employer anticipates any issues with the unit as presented on the face of the petition?

Thank you,

Tanya

On Jun 19, 2015, at 4:39 PM, "[fred.braid@hklaw.com](mailto:fred.braid@hklaw.com)" <[fred.braid@hklaw.com](mailto:fred.braid@hklaw.com)> wrote:

Please note our appearance on behalf of Tishman Construction Corporation in this matter and kindly direct all future communications regarding this matter to the undersigned. Thank you.

**Frederick D. Braid | Holland & Knight**

Partner

31 West 52nd Street | New York NY 10019

Phone 212.513.3393 | Fax 212.385.9010

[fred.braid@hklaw.com](mailto:fred.braid@hklaw.com) | [www.hklaw.com](http://www.hklaw.com)

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[Add to address book](#) | [View professional biography](#)

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NOTE: This e-mail is from a law firm, Holland & Knight LLP ("H&K"), and is intended solely for the use of the individual(s) to whom it is addressed. If you believe you received this e-mail in error, please notify the sender immediately, delete the e-mail from your computer and do not copy or disclose it to anyone else. If you are not an existing client of H&K, do not construe anything in this e-mail to make you a client unless it contains a specific statement to that effect and do not disclose anything to H&K in reply that you expect it to hold in confidence. If you properly received this e-mail as a client, co-counsel or retained expert of H&K, you should maintain its contents in confidence in order to preserve the attorney-client or work product privilege that may be available to protect confidentiality.

UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
**STATEMENT OF POSITION**

| DO NOT WRITE IN THIS SPACE |            |
|----------------------------|------------|
| Case No.<br>2-RC-154322    | Date Filed |

**INSTRUCTIONS:** Submit this Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and all attachments on each party named in the petition in this case such that it is received by them by the date and time specified in the notice of hearing.  
**Note:** Non-employer parties who complete this form are NOT required to complete items 8f or 8g below or to provide a commerce questionnaire or the lists described in item 7. In RM cases, the employer is NOT required to respond to items 3, 5, 6, and 8a-8e below.

|  |                                      |                                     |
|--|--------------------------------------|-------------------------------------|
| 1a. Full name of party filing Statement of Position<br><b>Tishman Construction Corporation</b>     | 1c. Business Phone:<br><b>See 9f</b> | 1e. Fax No.:<br><b>See 9g</b>       |
| 1b. Address (Street and number, city, state, and ZIP code)<br><b>100 Park Avenue, NY, NY 10017</b> | 1d. Cell No.:<br><b>See 9h</b>       | 1f. e-Mail Address<br><b>See 9e</b> |

2. Do you agree that the NLRB has jurisdiction over the Employer in this case? ☒ Yes ☐ No  
(A completed commerce questionnaire (Attachment A) must be submitted by the Employer, regardless of whether jurisdiction is admitted)

3. Do you agree that the proposed unit is appropriate? ☐ Yes ☒ No (If not, answer 3a and 3b.)

a. State the basis for your contention that the proposed unit is not appropriate. (If you contend a classification should be excluded or included briefly explain why, such as shares a community of interest or are supervisors or guards.)

**Proposed unit includes supervisors: Carpenter Foreman, Carpenter General Foreman**

|   |  |
|---|--|
| b. State any classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit.<br>Added<br><b>None</b> | Excluded<br><b>Carpenter Foreman, Carpenter General Foreman, Superintendent, Project Manager</b> |
|---|--|

4. Other than the individuals in classifications listed in 3b, list any individual(s) whose eligibility to vote you intend to contest at the pre-election hearing in this case and the basis for contesting their eligibility.

**None**

5. Is there a bar to conducting an election in this case? ☐ Yes ☒ No If yes, state the basis for your position.

6. Describe all other issues you intend to raise at the pre-election hearing.  
Employer has no employees who perform work within jurisdiction of the District Council at time of filing this statement of position, and it has lawfully given notice of termination of 8(f) agreement at its June 30, 2015 expiration and does not intend to employ carpenters directly at any time in the foreseeable future. There is, therefore, no unit within which to hold a representation election. In addition, Carpenter Foreman and Carpenter General Foreman should be excluded from the unit as supervisors.

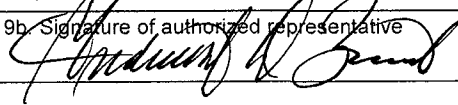
7. The employer must provide the following lists which must be alphabetized (overall or by department) in the format specified at <http://www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015>.

- (a) A list containing the full names, work locations, shifts and job classification of all individuals in the proposed unit as of the payroll period immediately preceding the filing of the petition who remain employed as of the date of the filing of the petition. (Attachment B)
- (b) If the employer contends that the proposed unit is inappropriate the employer must provide (1) a separate list containing the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit, if any to make it an appropriate unit, (Attachment C) and (2) a list containing the full names of any individuals it contends must be excluded from the proposed unit to make it an

State your position with respect to the details of any election that may be conducted in this matter. 8a. Type: ☒ Manual ☐ Mail ☐ Mixed Manual/Mail

|  |  |   |
|--|--|---|
| 8b. Date(s)<br><b>None</b>   | 8c. Time(s)<br><b>None</b>                                   | 8d. Location(s)<br><b>None</b>  |
| 8e. Eligibility Period (e.g. special eligibility formula)<br><b>None</b> | 8f. Last Payroll Period Ending Date<br><b>Not applicable</b> | 8g. Length of payroll period<br><input type="checkbox"/> Weekly <input type="checkbox"/> Biweekly <input type="checkbox"/> Other (specify length) |

9. Representative who will accept service of all papers for purposes of the representation proceeding

|  |  |   |
|--|--|---|
| 9a. Full name and title of authorized representative<br><b>Frederick D. Braid</b>  | 9b. Signature of authorized representative<br> | 9c. Date<br><b>June 24, 2015</b>                  |
| 9d. Address (Street and number, city, state, and ZIP code)<br><b>Holland &amp; Knight LLP, 31 West 52nd Street, NY, NY 10019</b> |  | 9e. e-Mail Address<br><b>fred.braid@hklaw.com</b> |
| 9f. Business Phone No.:<br>212-513-3393  | 9g. Fax No.:<br>212-385-9010   | 9h. Cell No.                                      |

**WILLFUL FALSE STATEMENTS ON THIS STATEMENT OF POSITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. Code, Title 18, Section 1001)**

**PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

NATIONAL LABOR RELATIONS BOARD

QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

|   |                            |
|---|----------------------------|
| CASE NAME<br>Tishman Construction Corporation | CASE NUMBER<br>2-RC-154322 |
|---|----------------------------|

1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)

Tishman Construction Corporation

2. TYPE OF ENTITY

☒ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify )

3. IF A CORPORATION or LLC

A. STATE OF INCORPORATION  
OR FORMATION

B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES

4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS

5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR

6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).

Construction

7. A. PRINCIPAL LOCATION:

B. BRANCH LOCATIONS:

100 Park Avenue, NY, NY 10017

8. NUMBER OF PEOPLE PRESENTLY EMPLOYED

A. Total:

B. At the address involved in this matter:

9. DURING THE MOST RECENT (Check appropriate box): ☒ CALENDAR YR ☐ 12 MONTHS or ☐ FISCAL YR (FY dates )

YES NO

A. Did you **provide services** valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value.  
\$

B. If you answered no to 9A, did you **provide services** valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided.  
\$

C. If you answered no to 9A and 9B, did you **provide services** valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$

D. Did you **sell goods** valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$

E. If you answered no to 9D, did you **sell goods** valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount.  
\$

F. Did you **purchase and receive goods** valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$

G. Did you **purchase and receive goods** valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$

H. **Gross Revenues** from all sales or performance of services (Check the largest amount):

☐ \$100,000 ☐ \$250,000 ☐ \$500,000 ☒ \$1,000,000 or more If less than \$100,000, indicate amount.

I. Did you begin operations within the last 12 months? If yes, specify date: \_\_\_\_\_


10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?

☒ YES ☐ NO (If yes, name and address of association or group). Building Contractors Association, Inc.

11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

|                            |                   |  |                                  |
|----------------------------|-------------------|--|----------------------------------|
| NAME<br>Frederick D. Braid | TITLE<br>Attorney | E-MAIL ADDRESS<br>fred.braid@hklaw.com | TELEPHONE NUMBER<br>212-513-3393 |
|----------------------------|-------------------|--|----------------------------------|

12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

|  |  |  |                 |
|--|--|--|-----------------|
| NAME AND TITLE (Type or Print)<br>Frederick D. Braid, Attorney | SIGNATURE<br> | E-MAIL ADDRESS<br>fred.braid@hklaw.com | DATE<br>6/24/15 |
|--|--|--|-----------------|

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.



**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

|                                  |   |                             |
|----------------------------------|---|-----------------------------|
| -----X                           | : |                             |
| NEW YORK CITY DISTRICT           | : | Case No. 02-RC-154322       |
| COUNCIL OF CARPENTERS            | : |                             |
|                                  | : |                             |
| -AND-                            | : |                             |
|                                  | : | <b>STATEMENT OF SERVICE</b> |
| TISHMAN CONSTRUCTION CORPORATION | : |                             |
| -----X                           | : |                             |

**(b) (6), (b) (7)(C)**, affirms the truth of the following under penalties of perjury:

1. I am employed by the firm of Holland and Knight LLP and reside in the State of New York.
2. I am at least 18 years of age and I am not a party to this action.

3. On Wednesday, June 24, 2015, I caused to be served, via electronic mail (e-mail), a true and correct PDF copy of the STATEMENT OF POSITION (OF TISHMAN CONSTRUCTION CORPORATION), in the above-captioned action, by personally sending the aforementioned document to the below individual, via his regularly used business e-mail addresses, in accordance with Section 102.114(i) of the National Labor Relations Board's Rules and Regulations.

Marty Glennon, Esq.  
Archer, Byington, Glennon & Levine, LLP  
One Huntington Quadrangle-Suite 4C10  
P.O. Box 9064  
Melville, NY 11747-9064  
(631) 249-6565 (phone)  
(631) 777-6906  
[mglennon@abgllaw.com](mailto:mglennon@abgllaw.com)

*Attorneys for Petitioner  
New York City District Council of Carpenters*

**(b) (6), (b) (7)(C)**

**(b) (6), (b) (7)(C)**

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 2**

**TISHMAN CONSTRUCTION CORPORATION**

**Employer**

**and**

**Case 02-RC-154322**

**NYC DISTRICT COUNCIL OF CARPENTERS**

**Petitioner**

**AFFIDAVIT OF SERVICE OF: Order Rescheduling Hearing, dated 6/24/15.**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on , I served the above-entitled document(s) by **regular mail** upon the following persons, addressed to them at the following addresses:

Allan Paul , Officer  
Tishman Construction Corporation  
100 Park Ave  
New York, NY 10017-5516

Marty Glennon , Esq.  
ARCHER BYINGTON GLENNON &  
LEVIN LLP  
One Huntington Quadrangle  
Suite 4C10, PO Box 9064  
Melville, NY 11747

M. Walker  
NYC DISTRICT COUNCIL OF  
CARPENTERS  
395 Hudson St  
New York, NY 10014-3669

6/24/15  
Date

Daisy Cabrera, Designated Agent of NLRB  
Name

  
Signature

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 2**

**TISHMAN CONSTRUCTION CORPORATION**

**Employer**

**and**

**Case 02-RC-154322**

**NYC DISTRICT COUNCIL OF CARPENTERS**


**Petitioner**

**ORDER RESCHEDULING HEARING**

**IT IS HEREBY ORDERED** that the hearing in the above-entitled matter be, and the same hereby is, rescheduled to June 29, 2015, at 9:30 a.m., and on consecutive days thereafter, if necessary, until completed, in a hearing room at 26 Federal Plaza, Room 3614, New York, New York 10278.

The Statement of Position in this matter must be filed with the Regional Director and served on the parties listed on the petition by no later than **noon** Eastern time on **June 28, 2015**. The Statement of Position may be e-Filed but, unlike other e-Filed documents, must be filed by noon Eastern time on the due date in order to be timely. If an election agreement is signed by all parties and returned to the Regional Office before the due date of the Statement of Position, the Statement of Position is not required to be filed.

Dated: June 24, 2015

  
\_\_\_\_\_  
KAREN P. FERNBACH, REGIONAL  
DIRECTOR  
NATIONAL LABOR RELATIONS BOARD  
REGION 02  
26 Federal Plz Ste 3614  
New York, NY 10278-3699

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 2**

**TISHMAN CONSTRUCTION CORPORATION**

**Employer**

**and**

**Case 02-RC-154322**

**NYC AND VICINITY DISTRICT COUNCIL OF  
CARPENTERS**

**Petitioner**

**ORDER APPROVING WITHDRAWAL REQUEST AND  
WITHDRAWING NOTICE OF REPRESENTATION HEARING**

**IT IS ORDERED** that the Petitioner's request to withdraw the petition is approved.

**IT IS FURTHER ORDERED** that the Notice of Representation Hearing previously  
issued in this matter is withdrawn.

Dated: June 29, 2015

*Leah Z. Jaffe*

---

LEAH Z. JAFFE, ACTING  
REGIONAL DIRECTOR  
NATIONAL LABOR RELATIONS BOARD  
REGION 02  
26 Federal Plz Ste 3614  
New York, NY 10278-3699